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8 Attorneys for THE VANGUARD GROUP, INC.;
9 VANGUARD MARKETING CORP.; and
10 VANGUARD BROKERAGE SERVICES

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 JULIAN A. POLLOK,
14 ADMINISTRATOR FOR THE
15 ESTATE OF EDWARD S.
16 SALKIN,

17 Plaintiff,

18 v.

19 THE VANGUARD GROUP, INC.,
20 VANGUARD MARKETING
21 CORP.; and VANGUARD
22 BROKERAGE SERVICES and
23 DOES 1 through 50, inclusive,

24 Defendants.

Case No. 8:16-CV-00836

Honorable: _____

Crtrm.: _____

**DEFENDANTS THE VANGUARD
GROUP, INC., VANGUARD
MARKETING CORPORATION,
AND VANGUARD BROKERAGE
SERVICES' NOTICE OF
REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. §§ 1332,
1441, AND 1446 (DIVERSITY
JURISDICTION)**

1 **TO THE CLERK OF THE ABOVE ENTITLED COURT:**

2 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1332, 1441, and
3 1446, The Vanguard Group, Inc., Vanguard Marketing Corporation, and Vanguard
4 Brokerage Services (“Defendants”) hereby remove to this Court the state court
5 action described below.

6 1. On March 3, 2016, a civil action was commenced by a
7 California Probate Code Section 850 Petition (the “Petition”) in the Superior Court
8 in the State of California in and for the County of Orange (“Orange County
9 Superior Court”) entitled *Julian A. Pollok, Administrator for the Estate of Edward*
10 *S. Salkin (the “Plaintiff”) vs. The Vanguard Group, Inc., Vanguard Marketing*
11 *Corporation, and Vanguard Brokerage Services*¹, and Does 1 through 50, inclusive,
12 Case No. 30-2014-00733494-PR-PL-CJC (the “State Court Action”). A true and
13 correct copy of the Petition is attached hereto as Exhibit 1.

14 2. The Petition seeks turnover under California Probate Code
15 Section 850 of property allegedly belonging to the Estate of Edward S. Salkin (the
16 “Estate”) as seeks recovery for the alleged diminution of value of that property.
17 Petition, at Prayer for Relief, ¶¶ 1-2 (seeking alleged “difference in value of each
18 stock, security and/or funds belonging to Dr. Salkin’s estate” that purportedly
19 occurred before Plaintiff obtained an order directing turnover of the deceased’s
20 investment funds). As the Petition itself makes clear, however, Defendants did in
21 fact turnover all property allegedly belonging to the Estate over one year ago. *Id.* at
22 ¶¶ 11-12. The property at issue had been subject to a dispute between Plaintiff and
23 another person, and at one point a temporary restraining order was granted
24 forbidding release of the funds. Pursuant to Defendants’ contractual rights, it froze
25 the funds pending an order of court or agreement by the disputing parties as to the
26

27 ¹ Vanguard Brokerage Services is not a legal entity, but rather, is a division
28 of Defendant Vanguard Marketing Corporation.

1 funds. Plaintiff agreed that Vanguard would not bear any liability with respect to
 2 the funds if the funds were turned over in response to a court order. Rather than
 3 immediately obtaining an order to release the funds, Plaintiff waited several months
 4 to obtain an order to turn over the property without ever requesting that the assets
 5 be invested more conservatively to, *e.g.*, guard against diminution of value. The
 6 Defendants promptly released the property over upon issuance of the order.

7 3. On April 6, 2016, a Notice of Hearing regarding the Petition was
 8 filed in the State Court Action. A true and correct of the Notice of Hearing is
 9 attached hereto as Exhibit 2.

10 4. Also on April 6, 2016, the Plaintiff's registered process server in
 11 California received, for the first time, the Petition and Notice of Hearing.
 12 Accordingly, this Petition for Removal is timely as it is filed within thirty (30) days
 13 of the receipt of the Petition by Defendants. *See* 28 U.S.C. §1446(b).

14 5. To the best of Defendants' knowledge, no further proceedings
 15 have taken place in the State Court Action regarding the Petition, other than the
 16 filing and/or service of the documents attached as Exhibits 1 and 2.

17 6. **Removal jurisdiction under 28 U.S.C. §§ 1332, 1441, and**
 18 **1446**: This is a civil action that may be removed to this Court by Defendants
 19 pursuant to the provisions of 28 U.S.C. §§ 1332, 1441, and 1446, in that: (i) the
 20 matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and
 21 costs; and (ii) at the time the Petition was filed, as well as at the time of this
 22 removal, each of the Defendants is a citizen of a state different from that of
 23 Plaintiff's citizenship, as shown in more detail below. *Thomas v. Artist Rights*
 24 *Enforcement Corp.*, 572 F. Supp. 2d 1194, 1197 (C.D. Cal. 2008) (A "Section 850
 25 Petition" constitutes a "civil action . . . properly removable within meaning of 28
 26 U.S.C. § 1441(b)").

27 7. **Matter in controversy exceeds \$75,000**: In the Petition,
 28

1 Plaintiff seeks “damages” of “not less than \$1,820,114,” exclusive of interest and
 2 costs. Petition, Prayer for Relief, ¶ 2; 28 U.S.C. § 1332(a) (matter in controversy
 3 exceeding \$75,000, exclusive of interest and costs, sufficient for removal).

4 8. **Diversity of citizenship:** At all times herein mentioned,
 5 Plaintiff was and still is a resident and citizen of the State of California. *See*
 6 Petition, ¶ 7. At all times herein mentioned – as well as at the time of the filing of
 7 the Petition and as of the date of this removal – Defendants have been and
 8 currently are all (i) citizens of the State of Pennsylvania; (ii) incorporated,
 9 organized, and existing under the laws of the State of Pennsylvania; and (iii) have
 10 their principal place of business in Malvern, Pennsylvania. *C.f.*, Petition at ¶¶ 3-4.
 11 Thus, diversity exists between the only named Plaintiff, a citizen of California, and
 12 Defendants, each of which are citizens of Pennsylvania. Accordingly, there is
 13 sufficient “minimal diversity” to merit removal.

14 9. Pursuant to the requirements of 28 U.S.C. § 1446(d), Defendants
 15 will promptly give notice of filing this Notice of Removal to Plaintiff through his
 16 counsel of record and will promptly file with the clerk of the Orange County
 17 Superior Court a copy of the Notice of Removal.

18
 19 Dated: May 4, 2016

PEPPER HAMILTON LLP

20
 21 By: 

22 Kevin A. Crisp
 23 Attorneys for The Vanguard Group,
 24 Inc., Vanguard Marketing Corp.,
 25 and Vanguard Brokerage Services
 26
 27
 28

EXHIBIT 1

Bidna & Keys
 A Professional Law Corporation
 5120 Campus Drive • Newport Beach, CA 92660 • (949) 752-7030

Howard M. Bidna, #78164
 Richard D. Keys, # 105901
 Bidna & Keys, APLC
 5120 Campus Drive
 Newport Beach, CA 92660
 Tel: (949) 752-7030

Attorneys for Plaintiff Julian A. Pollok,
 Administrator with Will Annexed
 for the Estate of Edward S. Salkin

ELECTRONICALLY FILED
 Superior Court of California,
 County of Orange

03/03/2016 at 09:54:00 AM

Clerk of the Superior Court
 By Laura Ojeda, Deputy Clerk

06/09/2016

09:00 AM

C06

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

Case No. 30-2014-00733494-PR-PL-CJC

ESTATE OF:

EDWARD S. SALKIN, also known as,
 EDWARD SALKIN

JULIAN A. POLLOK, ADMINISTRATOR
 WITH WILL ANNEXED FOR THE
 ESTATE OF EDWARD S. SALKIN,

Petitioner,

vs.

THE VANGUARD GROUP, INC., a
 Pennsylvania corporation; VANGUARD
 MARKETING CORPORATION, a
 Pennsylvania corporation; VANGUARD
 BROKERAGE SERVICES, an unknown
 entity; and DOES 1 through 50, inclusive,

Respondents.

**PETITION FOR TURNOVER OF ESTATE
 PROPERTY PURSUANT TO PROBATE
 CODE § 850; AND FOR DOUBLE
 DAMAGES AND ATTORNEYS FEES
 PURSUANT TO PROBATE CODE § 859**

Hearing Date:

Time:

Dept.:

Petitioner alleges:

Jurisdiction and Venue

1. This petition arises under Probate Code § 850 in that Petitioner seeks the return of
 property belonging to the probate estate of Dr. Edward Salkin. The estate proceedings are pending

1 before this Court, as the decedent was a resident of Orange County at the time of his death. As
 2 alleged below, the Respondents holding property of the estate are foreign corporations who have
 3 registered to do business in California and are therefore subject to the jurisdiction of this Court. This
 4 Court therefore has jurisdiction over the subject matter of the petition and the parties, and venue is
 5 proper in this Court.

7 The Parties

8 2. Petitioner Julian A. Pollok is the duly appointed Administrator with Will Annexed
 9 for the Estate of Edward S. Salkin, deceased, and brings this action in such capacity.

10 3. Respondents THE VANGUARD GROUP, INC. and VANGUARD MARKETING
 11 CORPORATION are Pennsylvania corporations which have registered as foreign corporations with
 12 the California Secretary of State to be qualified to do business in California, and have consented to
 13 the exercise of jurisdiction over them by the Courts of California.

14 4. Respondent VANGUARD BROKERAGE SERVICES is an entity whose exact form
 15 is unknown to Petitioner. VANGUARD BROKERAGE SERVICES does business on a regular
 16 basis in the State of California and has consented to the exercise of jurisdiction over it by the Courts
 17 of California

18 5. Respondent is informed and believes, and therefore alleges, that each of the
 19 defendants designated herein as a fictitiously named defendant, DOES 1 through 50, is in some
 20 manner responsible for the events and happenings herein referred to.

21 6. Edward Salkin ("Dr. Salkin") died on June 12, 2014. Dr. Salkin died testate, and his
 22 will has been admitted to probate in this Court. Petitioner was appointed by this Court as
 23 Administrator with Will Annexed for Dr. Salkin's estate and letters testamentary issued on March
 24 16, 2015. Previously, on July 16, 2014, Petitioner was appointed by this Court as the Special
 25 Administrator for Dr. Salkin's estate.

26 7. Dr. Salkin was a resident of Orange County, California and his dealings with
 27 Respondents were in Orange County.

Operative Facts

8. Amongst the assets held by Dr. Salkin at the time of his death were various stocks, securities, and funds held in accounts maintained by and with Respondents. Upon Dr. Salkin's death, such stocks, securities and funds became property of his probate estate. At the time of Dr. Salkin's death, the total value of such stocks, securities, and funds was approximately \$9,385,720.

9. On or about July 28, 2014, Petitioner (then acting as the Special Administrator for Dr. Salkin's estate) made demand on Respondents to transfer to Petitioner all of the stocks, securities and funds belonging to Dr. Salkin's estate so that Petitioner could control such assets and liquidate, sell or reinvest them as he deemed appropriate. At the time such demand was made, the value of the stocks, securities and funds belonging to Dr. Salkin's estate was approximately \$9,468,189.

10. Respondents thereafter refused to turn over any stocks, securities, or funds belonging to Dr. Salkin's estate in response to Petitioner's demands.

11. On March 11, 2015, Petitioner obtained a Probate Court order directing Respondents to turn over the stocks, securities and funds belonging to Dr. Salkin's estate.

12. Respondents did not allow Petitioner access to the stocks, securities and funds belonging to the estate until on or about March 19, 2015. Petitioner immediately demanded that Respondents liquidate the stocks, securities, and funds and deliver the proceeds to Petitioner in care of Petitioner's investment advisor, First Foundation. On April 9, 2015, Respondents paid over to Petitioner only the sum of \$8,558,131.73.

13. Respondents failed and refused to turn over to Petitioner the stocks, securities and funds belonging to Dr. Salkin's estate, or the value of same, when Petitioner demanded that they be turned over. The total value of the stocks, securities and funds that Respondents did eventually turn over to Petitioner was at least \$910,057 less than the total value of the stocks, securities and funds Respondents held when demand was made. Pursuant to Probate Code § 850, Respondents are required to return the full value of each stock, security and/or fund, in an amount to be determined according to proof, plus prejudgment interest.

14. Respondents refusal to turn over the property belonging to Dr. Salkin's estate was in bad faith as such term is defined in Probate Code § 859. Accordingly, Petitioner is entitled to, and

1 therefore seeks, an award of double damages and an award of attorney fees in accordance with
2 Probate Code § 859.

3 15. This is not an action arising from contract. Accordingly, the provisions of Civil Code
4 §§ 3294, et.seq. apply. In failing to honor Petitioner's demands for turn over of property belonging
5 to Dr. Salkin's estate, Respondents acted with oppression, and malice and with the conscious
6 disregard of Petitioner's rights. Accordingly, Petitioner is entitled to recover from Respondents
7 punitive and exemplary damages in an amount to be determined by the trier of fact.
8

9 WHEREFORE, Petitioner pray for orders/judgment as follows:

10 1. For an order directing Respondents to turn over to Petitioner the difference in value
11 of each stock, security and/or funds belonging to Dr. Salkin's estate which Respondents wrongfully
12 refused to turn over at the time demand was made, in an amount to be determined according to proof,
13 but not less than \$910,057, plus prejudgment interest.

14 2. For double damages in accordance with Probate Code § 859, of not less than
15 \$1,820,114.

16 3. For reasonable attorneys fees in accordance with Probate Code § 859.

17 4. For exemplary and punitive damages in accordance with Civil Code § 3294, in an
18 amount to be determined in accordance with law.

19 5. For costs of suit.

20 6. For such other and further relief as the Court deems just, proper and equitable.
21

22 Dated: March 2, 2016

BIDNA & KEYS, APLC

23 By: 
24

Howard M. Bidna
Richard D. Keys

Attorneys for Petitioner Julian A. Pollok,
Administrator with Will Annexed for the
Estate of Edward S. Salkin
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Bidna & Keys
A Professional Law Corporation
5120 Campus Drive - Newport Beach, CA 92660 - (949) 752-7030

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VERIFICATION

I, Julian A. Pollok, declare:

I have read the foregoing Petition for Turnover of Estate Property Pursuant to Probate Code § 850; and for Double Damages and Attorneys Fees Pursuant to Probate Code § 859. The facts stated therein are true of my own knowledge, except for those facts stated on information and belief, and in such case, I believe them to be true.

I declare under penalty of perjury of the laws of California that the foregoing is true and correct.

Dated MARCH 2, 2016



Julian A. Pollok, Administrator with Will Annexed
for the Estate of Edward S. Salkin

EXHIBIT 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Richard D. Keys, SBN: 105901 Howard M. Bidna, SBN: 81604 BIDNA & KEYS, APLC 5120 Campus Drive, Newport Beach, CA 92660 TELEPHONE NO.: 949-752-7030 FAX NO. (Optional): 949-752-8770 E-MAIL ADDRESS (Optional): rkeys@bidnakeys.com ATTORNEY FOR (Name): Plaintiff Julian A. Pollok		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: 700 Civic Center Drive West CITY AND ZIP CODE: Santa Ana, 92701 BRANCH NAME: Central Justice Center		
<input checked="" type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> IN THE MATTER OF (Name): Edward S. Salkin also known as, Edward Salkin <input checked="" type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input type="checkbox"/> OTHER		
NOTICE OF HEARING—DECEDENT'S ESTATE OR TRUST		CASE NUMBER: 30-2014-00733494-PR-PL-CJC

This notice does not require you to appear in court, but you may attend the hearing if you wish.

- PETITION FOR TURNOVER OF ESTATE PROPERTY PURSUANT TO PROBATE CODE SECTION 850; AND FOR DOUBLE DAMAGES AND ATTORNEYS FEES PURSUANT TO PROBATE CODE SECTION 859

- a. Date: June 9, 2016 Time: 9:00 a.m. Dept.: C06 Room:

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Page 1 of 2

4/6/16

<input checked="" type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> IN THE MATTER OF (Name): Edward S. Salkin also known as, Edward Salkin <input checked="" type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input type="checkbox"/> OTHER	CASE NUMBER: 30-2014-00733494-PR-PL-CJC
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CLERK'S CERTIFICATE OF POSTING

1. I certify that I am not a party to this cause.
2. A copy of the foregoing *Notice of Hearing—Decedent's Estate or Trust*
 - a. was posted at (address):

 - b. was posted on (date):

Date: _____ Clerk, by _____, Deputy

PROOF OF SERVICE BY MAIL *

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
2. My residence or business address is (specify):
5120 Campus Drive, Newport Beach, CA 92660
3. I served the foregoing *Notice of Hearing—Decedent's Estate or Trust* on each person named below by enclosing a copy in an envelope addressed as shown below AND
 - a. ☐ depositing the sealed envelope on the date and at the place shown in item 4 with the United States Postal Service with the postage fully prepaid.
 - b. ☒ placing the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
4. a. Date mailed: 4/4/16 b. Place mailed (city, state): Newport Beach, CA
5. ☒ I served with the *Notice of Hearing—Decedent's Estate or Trust* a copy of the petition or other document referred to in the Notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 4/4/16

Kristi Lothian

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

	Name of person served	Address (number, street, city, state, and zip code)
1.	Corp Service Co which will dba CSC-Lawyers Inc Service	2710 Gateway Oaks Dr., Ste. 150N Sacramento, CA 95833 (Agent for The Vanguard Group, Inc.)
2.	Corp Service Co which will dba CSC Lawyers Inc. Services	2710 Gateway Oaks Dr., Ste. 150N Sacramento, CA 95833 (Agent for Vanguard Marketing Corp)
3.		
4.		

☐ Continued on an attachment. (You may use Attachment to Notice of Hearing Proof of Service by Mail, form DE-120(MA)/GC-020(MA), for this purpose.)

* Do not use this form for proof of personal service. You may use form DE-120(P) to prove personal service of this Notice.

Howard M. Bidna, #78164
 Richard D. Keys, # 105901
 Bidna & Keys, APLC
 5120 Campus Drive
 Newport Beach, CA 92660
 Tel: (949) 752-7030

Attorneys for Plaintiff Julian A. Pollok,
 Administrator with Will Annexed
 for the Estate of Edward S. Salkin

ELECTRONICALLY FILED
 Superior Court of California,
 County of Orange

03/03/2016 at 09:54:00 AM

Clerk of the Superior Court
 By Laura Ojeda, Deputy Clerk

06/09/2016

09:00 AM

C06

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

Case No. 30-2014-00733494-PR-PL-CJC

ESTATE OF:

**EDWARD S. SALKIN, also known as,
 EDWARD SALKIN**

**JULIAN A. POLLOK, ADMINISTRATOR
 WITH WILL ANNEXED FOR THE
 ESTATE OF EDWARD S. SALKIN,**

Petitioner,

vs.

**THE VANGUARD GROUP, INC., a
 Pennsylvania corporation; VANGUARD
 MARKETING CORPORATION, a
 Pennsylvania corporation; VANGUARD
 BROKERAGE SERVICES, an unknown
 entity; and DOES 1 through 50, inclusive,**

Respondents.

**PETITION FOR TURNOVER OF ESTATE
 PROPERTY PURSUANT TO PROBATE
 CODE § 850; AND FOR DOUBLE
 DAMAGES AND ATTORNEYS FEES
 PURSUANT TO PROBATE CODE § 859**

Hearing Date:

Time:

Dept.:

Petitioner alleges:

Jurisdiction and Venue

1. This petition arises under Probate Code § 850 in that Petitioner seeks the return of property belonging to the probate estate of Dr. Edward Salkin. The estate proceedings are pending

1 before this Court, as the decedent was a resident of Orange County at the time of his death. As
 2 alleged below, the Respondents holding property of the estate are foreign corporations who have
 3 registered to do business in California and are therefore subject to the jurisdiction of this Court. This
 4 Court therefore has jurisdiction over the subject matter of the petition and the parties, and venue is
 5 proper in this Court.

6 7 The Parties

8 2. Petitioner Julian A. Pollok is the duly appointed Administrator with Will Annexed
 9 for the Estate of Edward S. Salkin, deceased, and brings this action in such capacity.

10 3. Respondents THE VANGUARD GROUP, INC. and VANGUARD MARKETING
 11 CORPORATION are Pennsylvania corporations which have registered as foreign corporations with
 12 the California Secretary of State to be qualified to do business in California, and have consented to
 13 the exercise of jurisdiction over them by the Courts of California.

14 4. Respondent VANGUARD BROKERAGE SERVICES is an entity whose exact form
 15 is unknown to Petitioner. VANGUARD BROKERAGE SERVICES does business on a regular
 16 basis in the State of California and has consented to the exercise of jurisdiction over it by the Courts
 17 of California

18 5. Respondent is informed and believes, and therefore alleges, that each of the
 19 defendants designated herein as a fictitiously named defendant, DOES 1 through 50, is in some
 20 manner responsible for the events and happenings herein referred to.

21 6. Edward Salkin ("Dr. Salkin") died on June 12, 2014. Dr. Salkin died testate, and his
 22 will has been admitted to probate in this Court. Petitioner was appointed by this Court as
 23 Administrator with Will Annexed for Dr. Salkin's estate and letters testamentary issued on March
 24 16, 2015. Previously, on July 16, 2014, Petitioner was appointed by this Court as the Special
 25 Administrator for Dr. Salkin's estate.

26 7. Dr. Salkin was a resident of Orange County, California and his dealings with
 27 Respondents were in Orange County.

Bidna & Keys
 A Professional Law Corporation
 5120 Campus Drive • Newport Beach, CA 92660 • (949) 752-7030

Operative Facts

8. Amongst the assets held by Dr. Salkin at the time of his death were various stocks, securities, and funds held in accounts maintained by and with Respondents. Upon Dr. Salkin's death, such stocks, securities and funds became property of his probate estate. At the time of Dr. Salkin's death, the total value of such stocks, securities, and funds was approximately \$9,385,720.

9. On or about July 28, 2014, Petitioner (then acting as the Special Administrator for Dr. Salkin's estate) made demand on Respondents to transfer to Petitioner all of the stocks, securities and funds belonging to Dr. Salkin's estate so that Petitioner could control such assets and liquidate, sell or reinvest them as he deemed appropriate. At the time such demand was made, the value of the stocks, securities and funds belonging to Dr. Salkin's estate was approximately \$9,468,189.

10. Respondents thereafter refused to turn over any stocks, securities, or funds belonging to Dr. Salkin's estate in response to Petitioner's demands.

11. On March 11, 2015, Petitioner obtained a Probate Court order directing Respondents to turn over the stocks, securities and funds belonging to Dr. Salkin's estate.

12. Respondents did not allow Petitioner access to the stocks, securities and funds belonging to the estate until on or about March 19, 2015. Petitioner immediately demanded that Respondents liquidate the stocks, securities, and funds and deliver the proceeds to Petitioner in care of Petitioner's investment advisor, First Foundation. On April 9, 2015, Respondents paid over to Petitioner only the sum of \$8,558,131.73.

13. Respondents failed and refused to turn over to Petitioner the stocks, securities and funds belonging to Dr. Salkin's estate, or the value of same, when Petitioner demanded that they be turned over. The total value of the stocks, securities and funds that Respondents did eventually turn over to Petitioner was at least \$910,057 less than the total value of the stocks, securities and funds Respondents held when demand was made. Pursuant to Probate Code § 850, Respondents are required to return the full value of each stock, security and/or fund, in an amount to be determined according to proof, plus prejudgment interest.

14. Respondents refusal to turn over the property belonging to Dr. Salkin's estate was in bad faith as such term is defined in Probate Code § 859. Accordingly, Petitioner is entitled to, and

1 therefore seeks, an award of double damages and an award of attorney fees in accordance with
2 Probate Code § 859.

3 15. This is not an action arising from contract. Accordingly, the provisions of Civil Code
4 §§ 3294, et.seq. apply. In failing to honor Petitioner's demands for turn over of property belonging
5 to Dr. Salkin's estate, Respondents acted with oppression, and malice and with the conscious
6 disregard of Petitioner's rights. Accordingly, Petitioner is entitled to recover from Respondents
7 punitive and exemplary damages in an amount to be determined by the trier of fact.
8

9 WHEREFORE, Petitioner pray for orders/judgment as follows:

10 1. For an order directing Respondents to turn over to Petitioner the difference in value
11 of each stock, security and/or funds belonging to Dr. Salkin's estate which Respondents wrongfully
12 refused to turn over at the time demand was made, in an amount to be determined according to proof,
13 but not less than \$910,057, plus prejudgment interest.

14 2. For double damages in accordance with Probate Code § 859, of not less than
15 \$1,820,114.

16 3. For reasonable attorneys fees in accordance with Probate Code § 859.

17 4. For exemplary and punitive damages in accordance with Civil Code § 3294, in an
18 amount to be determined in accordance with law.

19 5. For costs of suit.

20 6. For such other and further relief as the Court deems just, proper and equitable.
21

22 Dated: March 2, 2016

BIDNA & KEYS, APLC

23 By: 
24

Howard M. Bidna
Richard D. Keys

Attorneys for Petitioner Julian A. Pollok,
Administrator with Will Annexed for the
Estate of Edward S. Salkin
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VERIFICATION

I, Julian A. Pollok, declare:

I have read the foregoing Petition for Turnover of Estate Property Pursuant to Probate Code § 850; and for Double Damages and Attorneys Fees Pursuant to Probate Code § 859. The facts stated therein are true of my own knowledge, except for those facts stated on information and belief, and in such case, I believe them to be true.

I declare under penalty of perjury of the laws of California that the foregoing is true and correct.

Dated MARCH 2, 2016


Julian A. Pollok, Administrator with Will Annexed
for the Estate of Edward S. Salkin